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Human Rights: A Millennial Year

by Robert B. Cullen

On July 9, 1988, an extraordinary event took place in Vilnius, the capital of the Soviet republic of Lithuania. Tens of thousands of people jammed a soccer stadium in Vingis Park for a political rally. Ostensibly, they came to hear a report by Lithuanian delegates to that month's Communist Party conference in Moscow, and to support Mikhail Gorbachev's campaign for *perestroika* and *glasnost*. But the banners they bore and the flags they unfurled told what these demonstrators were really about. They meant to celebrate their national identity, an identity repressed since the Soviet Union annexed their country in 1940. They meant to demand political changes that would only begin with the program Gorbachev had outlined in Moscow a week earlier. Their flags were the long-banned yellow, green and red tricolor of pre-Soviet Lithuania. Their banners bore slogans of revolt: "Self-rule for Lithuania!" "Abolish the Privileged Class!" Their song was the long-banned national anthem, "Lithuania, Our Fatherland." For the benefit of those too young to have heard it and learned it, the organizers passed out cards with the lyrics printed on them.

A bearded poet named Sigitas Geda took the microphone and spoke. "Is it possible for a mouse to down an elephant?" he asked the crowd. Then he answered his own question. "Without a doubt! One only has to time it, for when the elephant is balanced on one toe." There was a moment of silence for the deportees of the 1940s and 1950s. One speaker pointed out the plainclothesmen taking pictures from high in the stadium. The crowd angrily booed.

Most extraordinary of all, a Lithuanian Communist Party secretary, Algirdas Brazauskas, took the floor. Brazauskas, a thick-boned, grey-haired man of 56, wore a white shirt and a dark tie, with no jacket. He endorsed the concept of "economic sovereignty" for Lithuania. He said

the party was recommending the legalization of the country's tricolor.¹

Brazauskas kept at least one of his promises. On October 7, the tricolor was raised over Gediminas Tower, the highest point in Vilnius, for the first time since 1940, setting off a celebration of fireworks, singing and dancing.² And on October 20, Brazauskas was named first secretary of the Lithuanian Communist Party.

By virtually every measure of human rights, 1988 was a year in which Soviet citizens enjoyed the most freedom their country has seen since the rise of Stalin in the late 1920s. Though it is difficult to compare eras, it may well be that Russians have never, whether under Tsars or communists, tasted the kind of liberty they had in 1988. Demonstrations like the one in Vilnius became almost commonplace around the Soviet Union. This kind of public disorder clearly disturbed many party officials, but despite their discomfort, they refrained from massive or excessively bloody crackdowns. There were still instances of repression, but the number of political prisoners held in the country's jails dwindled, by Western counts, to well under 300. A new law promised to curb the abuse of psychiatry as a police tool to suppress dissent. Tens of thousands of Soviets emigrated or visited friends abroad. Andrei Sakharov, the living symbol of the Soviet human rights movement, received permission to travel to the United States. The Russian Orthodox Church celebrated the millennium of the baptism of Kievan Rus' in an atmosphere of new respect. The Soviet Union in 1988 was by no means a democracy, but it had come a long way from totalitarianism.

But, as 1988 drew to a close, Soviet human rights reformers had yet to achieve their principal goal. It was not just that there were all too many cases of dissidents still in

¹ This account comes from a videotape of the event supplied by the Lithuanian Information Service, 1611 Connecticut Ave. NW, Washington, D.C.

² Vilnius, *Gimtas krastis*, No. 41, 1988.



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jail, Jews denied emigration or church members harassed by local authorities. Those were real problems. But the failure to make reform solid and permanent, to "institutionalize" it, overshadowed individual cases of injustice. By "institutionalization," a clumsy word borrowed from the West, Soviet reformers generally meant the passage of new laws and regulations that would set down for every bureaucrat to see the new rights and privileges won in the past few years. "We need new legal norms and guarantees," said Fedor M. Burlatskii, chairman of a party-sanctioned citizens' group called the Commission on Humanitarian Cooperation and Human Rights that grew active in 1988. Referring to the inter-agency process, he said: "There is a major argument going on about the degree of democratization."³ Throughout 1988, reformers and conservatives carried on that argument in inter-agency commissions struggling with reforms in emigration, criminal law, and religion.

Some people, Burlatskii included, recognized that the need for institutionalization went beyond anything that could be satisfied by new statutes. To solve in any fundamental and permanent way its human rights problems, the Soviet Union needed not only new institutions, but entirely new attitudes. "Our country, both before and after the Revolution, had almost no democratic tradition. It had no liberal tradition — that is, traditions which place first the individual, his rights, his freedoms, and his independence from the state," Burlatskii said. Developing such traditions will take time.

Political Rights

The expanded freedom to assemble, demonstrate, and petition for redress of grievances found its most prolonged and dramatic manifestations in Armenia. From February 23 onward, hundreds of thousands of Armenians demonstrated, staged strikes that shut down stores and public transit, and otherwise pressed their demand for the transfer of the Armenian enclave of Nagorno-Karabakh from Azerbaijan to Armenia. Azeris reacted violently in the mixed Armenian-Azeri city of Sumgait in Azerbaijan, going on a rampage that killed at least 32 Soviet Armenians. The origins of this conflict, the precise details of what happened this year, and the justice of the Armenian and Azeri positions are questions beyond the scope of this essay. What is of concern is the way the Soviet government responded to the problem.

Since foreign correspondents were, with a few exceptions, barred from Armenia this year, Moscow's response to this unrest must be pieced together from the second-hand reports of American correspondents in Moscow, accounts by Armenian participants and Soviet announcements and press coverage. Most accounts, however, agree on several key conclusions:

- Moscow generally refrained from using massive force to crush the demonstrations and strikes. Gorbachev's first response was to appeal for calm and order. Military forces were used to quell the murderous rioting in Sumgait in February. Troops were deployed in Yerevan, and in one instance, according to some accounts, they killed one Armenian and injured 36 others in the course of ejecting demonstrators from Yerevan's airport. But the demonstrations and strikes continued. Thousands gathered in the Opera Square every Friday night, demanding regional autonomy, freedom to fly the flag of the independent Armenia that existed from 1918-20 and the right to open consulates in foreign cities with large Armenian populations.
- The leaders of the Armenian nationalists were subject to selective and relatively mild repression. Paruir Airikyan was arrested in March, and offered a chance to emigrate. When he declined, he was unceremoniously stripped of his citizenship in July and exiled, first to Ethiopia, then to the United States. At least six other Armenian leaders were jailed, their legal fate undetermined. There was no indication of reprisals against rank-and-file protestors.
- The Kremlin tried to calm the disturbances with a political response. It rejected the prime demand of the Armenians, annexation of Nagorno-Karabakh, if for no other reason than the fact that there are dozens of other parts of the Soviet Union subject to similarly valid demands for border changes. But it did offer a few half-measures: reasserting the primacy of the Armenian language in Nagorno-Karabakh and pledging the equivalent of \$670 million in development aid. The party leaders of Nagorno-Karabakh, Armenia and Azerbaijan were replaced.

Moscow followed a similar pattern in dealing with unrest in the Baltic republics. Demonstrations occurred periodically throughout the year, marking events ranging from old national independence days to the anniversary of the Molotov-Ribbentrop Pact in 1939. In one case, the U.S. State Department accused the police of "systematic violence" in breaking up unauthorized demonstrations in Lithuania in September.⁴ But for the most part, the authorities seemed intent on mollifying and co-opting the Baltic dissidents. They allowed the formation of popular fronts in all three republics, fronts which included both Communist Party members and people whose pro-autonomy views merged with outright separatism. The Kremlin made symbolic gestures like allow-

3 Author's interview with Fedor M. Burlatskii, Sept. 14, 1988. Excerpts were published in *Newsweek International*, Sept. 26, 1988.

4 U.S. State Department press briefing, Oct. 6, 1988.

ing the Lithuanian flag to fly over Vilnius again. Estonia went off Moscow time and adopted a time zone more suited to its western longitude.

Alexander Yakovlev, Gorbachev's staunchest ally in the Politburo, sounded a conciliatory note when he visited the region in August. He refused, as Politburo colleague Yegor Ligachev was wont to do, to blame the unrest there on foreign intelligence services. Instead, Yakovlev apologized for Moscow's habit of ignoring problems and mistakes in the Baltic region, a habit he blamed on "the time of stagnation" under Leonid Brezhnev. Insensitivity in Moscow was the root of popular mistrust of the government, he said.⁵ He called for new attitudes of mutual respect and patience. Yakovlev's conciliatory posture may well have had economic roots. As he noted, the Baltic republics were among the country's leaders in implementing the economic aspects of *perestroika*, individual farming and cooperative enterprises. With the reforms meeting sullen opposition elsewhere in the country, Moscow could ill afford to alienate the workers of one region that might serve as a model for the rest. Whatever the motives, the outcome was extraordinary tolerance for dissent.

Even in Moscow, the people found new liberties. An ad hoc band of environmentalists held a series of demonstrations in the spring and summer to protest the city's plans to build a new zoo in a wooded park on the outskirts of the city.⁶

One not atypical story from the capital involved a plaque honoring Mikhail Suslov on the side of the journalism building on the downtown campus of Moscow State University. Suslov, the party's chief ideologist from Stalin's time until the end of the Brezhnev era, was hardly the sort of party leader who finds favor in the Gorbachev era. And on August 21, authorities at Moscow State found that someone had surreptitiously smeared black ink over their Suslov plaque. Rather than find and punish the perpetrators, however, the party committee and the university rector's office covered the plaque with plywood and asked the Central Committee to reconsider the question of whether Suslov deserved a memorial.⁷

One barometer of the new climate was the number of political prisoners. According to a count kept by the staff of the U.S. Congress's Helsinki watchdog group, the Commission on Security and Cooperation in Europe (CSCE), the number of known Soviet "prisoners of conscience" at the beginning of the Vienna review conference on the Helsinki Final Act, in November 1986, was 745. By September 19, 1988, that number had fallen to 250. At September's meet-

ing between the State Department and Soviet human rights experts, the Soviet side said a number of cases on the U.S. list would soon be resolved by pardon or release of the prisoners involved. In October, West German Chancellor Helmut Kohl, after a summit meeting with Gorbachev, announced that the Soviets had informed him that all persons "whom the West considers to be political prisoners" would be released by the end of the year.⁸ Kohl apparently misunderstood what he heard, and subsequent Soviet statements indicate that the number of prisoners to be released would fall short of what western human rights advocates would like. But the trend was positive.

Soviet culture places such a premium on order that it was probably inevitable that not everyone would look favorably on the social license of 1988. Certainly, Minister of Justice Boris V. Kravtsov did not in the interview he gave to *Izvestiia* on July 30. From 1986 through 1988, Kravtsov complained, there were more than 250 demonstrations unsanctioned by the authorities. Six police and soldiers had been killed and more than 1,000 injured. "The old law wasn't fully providing for the reliable defense of the population, police personnel, or internal troops," he said.

Kravtsov's lament for the oppressed Soviet police establishment was a preface to his defense of new decrees on demonstrations issued by the Supreme Soviet on July 28 and 29.⁹ As one of the first fruits of Gorbachev's effort to establish a framework of "socialist legality" for Soviet human rights practices, these new laws deserve close scrutiny.

The decrees, Kravtsov said, replace a variety of "temporary rules" and "experimental regulations" adopted by local soviets that are presumably both unpublished and contradictory. They were written by an inter-agency group top-heavy with law enforcement agencies: representatives of the procurator's office, the KGB, the Ministry of Internal Affairs and the Ministry of Justice participated, along with academics and Supreme Soviet members. Not surprisingly, the decrees share the common flaws of committee products. They try, somewhat clumsily, to balance the conflicting interests of the police and demonstrators.

On the positive side, the two decrees — one on procedure and one on punishment — lay down a written standard. Written, published law is the first protection against arbitrary government. More important, the first decree gives "individual groups of citizens" the right to organize demonstrations. In practice, that right had in the past been accorded only to pet groups like the Soviet Peace Committee, which rallied loyally against all Western weapons sys-

5 *Izvestiia*, August 11, 1988.

6 "Letter From Moscow," *The New Yorker*, Oct. 17, 1988.

7 *Izvestiia*, Oct. 14, 1988.

8 *Washington Post*, Oct. 27, 1988.

9 TASS text published by *FBIS-SOV*, Washington, July 29, 1988 and Aug. 1, 1988.

tems and remained tactfully silent about new Soviet deployments.

Unfortunately, the decrees also provide plenty of loopholes through which the authorities can stifle freedom of speech and assembly. A local executive committee can refuse to permit a demonstration "if its purpose is contrary to the U.S.S.R. constitution." It requires no great imagination to foresee ways in which this broad, vague authority might be used. Suppose someone's proposed demonstration advocates competition for the Communist Party, whose primacy is enshrined in the constitution?

Even *Izvestiia* felt compelled to ask Kravtsov what protection the decree afforded to a group improperly denied the right to demonstrate. Kravtsov blandly replied that he hardly thought protection was needed, that local soviets could be relied on not to subvert the spirit of the decree — a remarkable assertion in view of the country's history. Reformers acknowledged that the new law was far from perfect. "In my opinion, this is only a first step," said Alexander M. Yakovlev (no relation to the Politburo member), the head of the department of sociology and criminal law in the Institute of State and Law. "The next step will be to have judicial review of these decisions."¹⁰

Psychiatric Abuse

In Tengiz Abuladze's landmark film *Repentance*, released in 1985, the despotic ruler of an allegorical polity, who clearly represents Stalin, dies. His son and heir meets with advisers to talk about ways to keep a tight lid on dissent while persuading the populace that the bad old days have not returned. We can't send the dissidents to prison camps anymore, the son muses. Then he has a bright idea. "We'll send them to psychiatric hospitals!"

As the film suggests, the abuse of psychiatry to control dissidents was one of the hallmarks of the Leonid Brezhnev era. The Ministry of Internal Affairs, rather than the Ministry of Health, controlled a national network of special psychiatric hospitals for the criminally insane. Some of them became renowned as places where dissidents were put away on peculiar diagnoses such as "sluggish schizophrenia," without trials and without publicity. In 1983, the Soviets resigned from the World Psychiatric Association rather than face its criticism and possible expulsion.

Beginning in 1987, Moscow took some dramatic steps to improve this situation. Articles began to appear in the mass media admitting and criticizing past abuses. Amnesty International, in a special statement on punitive psychiatry,¹¹ reported that, while at least 12 dissidents were punished by confinement in mental hospitals in 1987, more

than double that number were released, "and there were strong signs that the Soviet authorities were reexamining the practice."

In January 1988, the Presidium of the Supreme Soviet published a new law on psychiatric commitment. Like the decree on demonstrations, it is one of the first case studies for judging the effort to institutionalize the human rights advances of the Gorbachev era. Like the decree, it replaces a previous administrative measure which was virtually secret. And, like the decree, it has its critics.

The law purports to "provide guarantees against errors and malpractice in psychiatry." It sets two-year jail terms for anyone who willfully confines a mentally healthy person. It sets up an appeal procedure, under which an individual confined against his will in a civil proceeding can ask for a review by other psychiatrists and by a court. Finally, the law takes administrative control of special mental hospitals from the Ministry of Internal Affairs (the police agency) and places them under the control of the Ministry of Health.

Amnesty International analyzed the statute and found that parts of it "indicate that the reforms made may not eradicate the use of psychiatry to punish dissent." Its criminal commitment procedure, virtually unchanged from previous practice, "strips the person accused of virtually all his or her procedural rights," Amnesty said. The law allows involuntary commitment proceedings against people who transgress vaguely defined norms like "the rules of socialist society." It does not define what "dangerous" behavior is. "It allows any troublemaker to be taken to a psychiatric hospital," complained Dr. Anatolii Koriagin, a former Soviet psychiatrist who was confined for protesting the abuse of his profession. He addressed a symposium of the International Association on the Political Use of Psychiatry in Washington on October 14, 1988. "You only need to get a chief psychiatrist obedient to the KGB to abuse the system."

In practice, though, the abuses of psychiatry seemed to diminish. In September, the U.S. Congress's CSCE staff estimated 85-100 cases of political prisoners in psychiatric confinement. Anatoli Podrabinek, a Moscow dissident who monitors psychiatric abuse, told the October 14 Washington symposium in a videotaped statement that while the new law was inadequate, he and his colleagues had noted "many political prisoners being released or transferred from special psychiatric hospitals." Podrabinek said that a special commission of Soviet and foreign psychiatrists would be required to make a precise determination of how many people still languished in mental hospitals for political reasons. As this article was written, the State Department and Soviet officials agreed on a preliminary meeting in Moscow to discuss ground rules for just such a commission.

¹⁰ Interview with the author, Sept. 29, 1988.

¹¹ USSR: A Review of Punitive Psychiatry Since January, 1987, Amnesty International, London, April 1988.

Emigration

In the area of emigration, numbers tell much of the story:

1988 Emigration

	Jews*	Germans**	Armenians***
January	702	1655	809
February	719	2253	1129
March	1014	2681	989
April	1055	2909	1091
May	1082	3140	1461
June	1469	3830	1946
July	1391	4445	542
August	1729	4282	85
September	2051	4941	1512
Total	11,212	30,136	9,564

*Data compiled by the U.S. Department of State from the National Conference on Soviet Jewry and the government of Israel.

**Data compiled by the U.S. Department of State from the Federal Republic of Germany.

***Data compiled by the U.S. Department of State on Armenians entering the United States.

These figures show a steady and significant surge in emigration throughout the year. (The decline in Armenian exits in July and August was due to the State Department's temporary lack of funds with which to process applicants.) Nor are they the only numbers which testify to a growing freedom of movement. According to State Department sources, the Soviets throughout 1988 informally waived the requirement in their January 1, 1987 emigration decree that applicants for emigration have an invitation from a close relative (parent or sibling) living abroad. In the latter half of the year, the department estimated, some 95 percent of all emigration applications gained approval. Perhaps more significant in the long run, ordinary Soviets were finding it possible to travel abroad as tourists. State Department officials said they issued about 2,500 tourist visas to Soviet citizens in September alone, and that Israel had issued 3,000 more in the same month. Soviet citizens still could not enjoy the promise of the Universal Declaration of Human Rights — the right to enter or leave their country at will. But the lack of hard currency, rather than Soviet policy, was becoming the major barrier.

Nevertheless, serious concerns remained in the West over Soviet emigration performance. From the list of 11,000 refuseniks which Ronald Reagan gave to Mikhail Gorbachev in Reykjavik in 1986, State Department officials estimated that between 1,000 and 3,000 remained. Most of these people have been denied permission to emigrate because of their alleged access to secret information at some point in their lives before they applied to leave. Actual case histories suggest that the Soviet definition of secrecy is both strict and arbitrary. Yuli Kosharovskii, one of the leaders of Moscow's refusenik community, has been denied permis-

sion to leave since 1971 because of work he did more than 20 years ago on missile guidance systems. Others are denied because parents or other relatives refuse to sign papers stipulating that the would-be emigrant has no outstanding financial obligations to them.

A leading Soviet human rights official, Yuri Reshetov, stated in March¹² that the Soviets were working on a comprehensive legal reform that would address the remaining problems in the emigration area. "We want very much to be considered a legal state where the rule of law prevails," said Reshetov, who is chief of the Division of Humanitarian Affairs in the Soviet Foreign Ministry. On secrecy, Reshetov said, the reform would insure that "when you join some department or factory that does secret work, you should be told that you will not be allowed to go abroad for several years after the completion of that work, and the number of years should be put formally on paper." Reshetov also said "there should be court proceedings to settle disputes" between family members over emigration. According to State Department officials, the Soviets have privately assured them that the reform will also make explicit the waiver of the requirement that a would-be emigre have an invitation from a close relative living abroad. In a TASS interview on October 31, Minister of Justice Kravtsov publicly repeated these promises, and said that the new law "will be fully in keeping with Article 12 of the International Covenant in Civil and Political Rights."

The Soviets' inability to publish this promised new decree by the end of October suggests, again, that an inter-agency struggle is underway in Moscow over just how wide to open the emigration door. Gorbachev himself suggested one argument against free emigration in his interview with NBC News in November 1987. He said that Western pressure for free emigration threatened the Soviet Union with a "brain drain." Under present circumstances, he had a point. American policy allows anyone who can get permission to leave the Soviet Union to obtain admission to the United States as a refugee. Leaders in other developing countries that are struggling to hold on to their best-educated people can at least take comfort from the fact that before someone can leave, he must find a country willing to take him. There are barriers to immigration in most parts of the world. But Gorbachev cannot rely on that deterrent to emigration; the United States will take anyone he will let out.

Religious Freedom

The picture on the front page of *Izvestiia* on April 30, 1988 was perhaps the first of its kind. It showed a round conference table in the Catherine Hall of the Kremlin. On one side sat the General Secretary of the Communist Party, flanked by two aides. On the other sat Patriarch Pimen of the Russian Orthodox Church and five of his subordinates, all in long beards and white clerical hats.

12 Interview with the author, published in *Newsweek International*, March 7, 1988.

"The mistakes committed in relation to the church and believers during the 1930s and subsequent years are being corrected," Gorbachev said in words that came close to an apology for past injustices. He acknowledged the contributions of church members to the defeat of Germany in World War II and praised the present hierarchy of the church for its support of Soviet foreign policy. "All that responds to the concerns of believers, for whom the humanistic ideal of socialism is close and understood... The overwhelming majority of believers has accepted *perestroika*, and they are making no small contribution to the realization of the plans for the socio-economic acceleration of the country, to the development of democracy and *glasnost*."

Gorbachev's public embrace of the church was, as he went on to say, part of a "new approach to church-state relations" in 1988. The Russian Orthodox Church was the prime beneficiary. Several important church sites were restored to church control after decades of decay under state control. In Kiev, the state returned the Monastery of the Caves, on the banks of the Dnieper, to church's control. The church observed its millennium with great pomp, including a ceremony at the Bolshoi Theatre. In August, the church accepted a gift of one million Bibles from foreign Christians. In September, the head of the Soviet customs service, Konstantin Kovalchuk, stated publicly that Soviet citizens were entitled to receive "religious literature and articles of religious practice" from abroad. The new relationship was so amicable that some church dissidents were worried by it. They recalled that the church was ever the handmaiden of strong tsars and warned that it must not accept such a relationship with the Communist Party.

Other denominations also enjoyed more liberty. Josef Cardinal Glemp, the primate of Poland, visited Catholics in Byelorussia in September, the first visit by a Polish bishop since World War II. The crowds who saw him chanted "Holy Father, come!" making it clear that they hoped Pope John Paul II would soon make his long-rumored trip to the Soviet Union. Ukrainian Baptists marked the millennium by a baptism service on the Dnieper which some 13,000 people attended. Hare Krishnas were allowed to register as a recognized denomination. And the press, on several occasions, published articles criticizing small-town officials who still harassed their local believers. Unregistered groups, on the other hand, reported continued persecution. The Ukrainian Catholic Church suffered particular harassment and intimidation, even though it had a reported 150 parishes operating openly but illegally in the Western Ukraine.¹³

As with emigration, the effort to codify the changes in the church-state relationship ran into delays. Gorbachev promised a new statute on religious affairs in his meeting with the Russian Orthodox prelates. In July, the *samizdat* bulletin *Express Chronicle* published a purported draft of the new law. This draft would have made substantial changes in

the status of religion. It appeared to give churches the right to establish religious training classes for children. It omitted Article 17 of the old statute, the article which prohibited church charities, Bible study groups and other activities considered normal for churches in other parts of the world. Most likely, if it was indeed genuine, it was only one of several drafts under consideration, and its fate is unknown. Burlatskii predicted: "As a minimum, there will be a return to the Leninist law. In Lenin's time, teaching religion was allowed. As a maximum, I would think there might be a decision to allow some kinds of church schools. It's hard to say how it will turn out."

Criminal Code Reform

One pillar of any new human rights order must be a thorough overhaul of the Soviet criminal code. The good news is that Moscow is working on one. The bad news is that it has yet to come up with one, and the same police interests that drilled loopholes into the decree on demonstrations are well represented in the drafting effort. "Drafts are being written and rewritten constantly," Burlatskii said. "The majority of legal specialists and representatives of various agencies" are opposing efforts to extirpate the statutes which have been used in the past to suppress dissent. As a result, Burlatskii said his group is "afraid the reform may be just a halfway measure, not enough."

One of the participants in the drafting process, Alexander M. Yakovlev, said the revision actually began five years ago, shortly after the death of Brezhnev. A group of academics decided to draft a model criminal code. Their work was published in 1987, and it became one of the bases for the current reform effort. Yakovlev said there are actually three drafting commissions. One is working on the criminal code, another on the military code, and a third on crimes against the state. The work of all three is supposed to be published by the end of 1988 or the beginning of 1989. Following that, according to Yakovlev, new statutes revising the rules of criminal procedure will be published and enacted.

There is a consensus, Yakovlev said, that the new criminal code will eliminate the death penalty for economic crimes (but not for all crimes) and generally reduce sentence length. The major disputes concern Article 70, prohibiting anti-Soviet slander, and Article 190-1, prohibiting anti-Soviet agitation and propaganda. Most of the charges against dissidents have been based on these two articles. "We are for eliminating (those articles) from the criminal code," Burlatskii said. "People should be convicted only for actions — not for things they say, not for propaganda, not for their point of view." Reform opponents, Burlatskii said, were demanding that the new code preserve "the ability of the state to defend itself from challenges aimed at the destruction of the system." Kravtsov, in his TASS interview, predicted that the

13 These events were reported by the Keston News Service in its bi-weekly bulletins in 1988.

new code would eliminate Article 190, but keep a modified version of Article 70, outlawing efforts to overthrow the government. That suggested that the new criminal code would be, like the decrees on demonstrations and psychiatric abuse, a messy compromise.

The Politics of Human Rights

Burlatskii's commentary helps to define the spectrum of opinion within the Soviet elite on human rights issues. He and his "citizens' commission" form one end of the spectrum. Burlatskii told *Newsweek* that in November 1987 the chairman of the Supreme Soviet's counterpart of the U.S. Congress's CSCE commission had suggested to him that a group of public advocates for human rights might be useful. Obviously, then, the group had support from at least part of the top echelons of the party and government. Its members, Burlatskii said, come from the "left intelligentsia," a category in which he includes writers, artists, journalists and academics who are "anxious to use this historic chance (Gorbachev's accession) to steadily improve human rights in this country. Our goal is to prevent a return to Stalinism or Brezhnevism and to liberalize our society." That is only natural. This group is the most direct and immediate beneficiary of *glasnost*.

Another locus of reform sentiment seems to be the Soviet foreign ministry under the leadership of Eduard Shevardnadze. In July, Shevardnadze presided at a follow-up meeting for 900 members of the foreign policy apparatus on the party conference early that month. According to *Izvestiia*'s account, "there was talk of the urgent necessity of the full openness of Soviet society to the outside world. Judgements were expressed concerning reformation of the legal-constitutional mechanisms of socialist democracy (and) bringing Soviet legislation into full agreement with the international obligations of the U.S.S.R."¹⁴ This also is understandable. No group within the Soviet elite appreciates the costs of the old human rights policies better than Soviet diplomats. They have seen how more liberal societies function, and they have witnessed how the old Soviet image damaged their efforts abroad.

The opposite end of the spectrum revealed itself with the publication of the famous Nina Andreeva letter to the newspaper *Sovetskaia Rossiia* on March 13. Several knowledgeable sources said the published version of the letter was actually heavily rewritten and expanded by both the staff of the newspaper and by Central Committee staff members working under Politburo member Yegor Ligachev. The letter attacked any number of reform proposals in the area of human rights. On emigration, for instance, Andreeva wrote: "They (the reformers) are bit by bit training us to see

this phenomenon as some kind of inoffensive change of residence, and not a betrayal of class and country by people who, for the most part, received a higher education at the general expense." The neo-Stalinist constituency for such views is discernible in the groups to which Andreeva's letter openly appealed: party officials, the military, Slavophiles.

The views of the Politburo on these questions are not as easy to pin down. Gorbachev is generally considered a strong reform advocate, because of his legal training and such observations as this one to the party conference: "In short, the main thing that characterizes a legal state is the real supremacy of the law... The rights of citizens must be reliably defended from any arbitrary rule."¹⁵ Gorbachev, however, has never expressed any sympathy for dissidents outside the mainstream of Soviet debate. In one interview this year¹⁶ he characterized dissident chronicler Sergei Grigoriants as an "alien phenomenon in our society, sponging on the democratic process, sponging on the positive aspects of *perestroika*." Based on their past statements, Ligachev and former KGB chairman Viktor Chebrikov seemed to be the Politburo members least partial to liberalization.¹⁷

The abrupt Central Committee plenum in late September may well have improved the position of reformers. Ligachev lost his ideology portfolio and Chebrikov shifted from the KGB to a post in the Central Committee secretariat, where he is supposed to oversee legal affairs. Whether he will exercise more or less influence from that position remains to be seen. Perhaps the most intriguing development was the loss of stature by the KGB. At least for the moment it is headed by V.A. Kriuchkov, who is only a Central Committee member, not a full, or even alternate, member of the Politburo. Moreover, State Department analysts say Kriuchkov is a specialist in foreign intelligence, not internal affairs. This would seem to signal an intention to reduce the role of the secret police in domestic matters.

The Future

If indeed Gorbachev and the reformers have decisively gained the upper hand, it is good news for the cause of human rights. Their words, backed now by three years of performance, suggest that they favor human rights reform for the least cosmetic and most durable of motives: enlightened self-interest. "Our problem has been that for many years there was no debate in the society, in the Party... This absence of debate led to many losses, mistakes and omissions," Gorbachev said in his May interview. Speaking of emigration rights, Burlatskii called freedom of movement "a major condition of our technical and cultural progress. We can't

¹⁴ *Izvestiia*, July 29, 1988.

¹⁵ *Izvestiia*, June 29, 1988.

¹⁶ *Newsweek*, May 30, 1988.

¹⁷ See Robert Cullen, "Human Rights: A Thaw Imperiled," in Seweryn Bialer and Michael Mandelbaum, eds., *Gorbachev's Russia and American Foreign Policy*, Boulder: Westview Press, 1988.

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be an isolated society anymore. When a nation is isolated, it doesn't know what's going on in the area of technology and culture in other countries — in Europe, America, Japan, Korea or Brazil." That is not to say that the reformers are indifferent to the cosmetic aspects of the human rights issue, and to the ways a better image abroad can further Soviet policy goals. Gorbachev, for instance, made it a point to press President Reagan at the Moscow summit to do away with the Jackson-Vanik Amendment, which erects high tariff barriers to the sale of Soviet products in America as a protest against Soviet hindrance of emigration. But only the ignorant would now dismiss the changes in Soviet human rights observance as a public relations ploy. The Soviets are changing to please themselves first, and the West second.

They still have a long way to go if they are to attain Gorbachev's goal of a society where human rights are protected by the rule of law. Burlatskii broke the effort to liberalize Soviet society into two phases. Phase One entailed criticism — of Stalin, of Brezhnev, of the existing order. Phase Two is where the Soviets presently are: struggling to "institutionalize" the reform program in new statutes about emigration, criminal law, etc. Beyond that lies a third phase, one that will demand even more radical and difficult changes.

One necessary reform that the Soviets are only beginning to address is an independent judicial system. "We're now coming toward the conclusion that the idea of separation of powers, expressed in the French Revolution, in the American Constitution, in the constitutions of other countries, is a correct idea. We have to try to implement it in a one-party system. It's difficult. It's necessary," Burlatskii said. In the area of human rights, separation of powers would mean sweeping legal reforms. Judges would have to be made somehow independent of the Party and the Ministry of Justice, which now nominate them for pro forma election. Juries would render verdicts instead of judges. Lawyers would be real advocates for their clients, both during and after an investigation. There would be a system of appellate review. Such momentous changes most likely will not occur

immediately — it took centuries to develop similar institutions in the West. But one measure of future Soviet progress in human rights will be how steadily the country moves toward them.

The second measure will be how successfully the Party changes its own rules. The old Bolshevik principle of democratic centralism lies at the root of Soviet repression. In essence, this principle means that loyal communists accept the decisions of the party without dissent. Democratic centralism implies that there is One Truth, and the Party knows what it is. It implies something wrong with anyone who disagrees with the One Truth. Unfortunately, the sainted Lenin, and not Stalin or Brezhnev, contributed the principle of democratic centralism to the Party. The Party may not be capable of openly discarding a part of Lenin's legacy. Doing so would come uncomfortably close to questioning the very legitimacy of Party rule. But it may be able tacitly to edge away from it. It could stop denying that factions exist within its ranks. It could allow defeated minorities to continue to make their case in the media. To some degree, this is going on now. At the June party conference, delegates continued to disagree with the decision to make party first secretaries chairmen of local soviets even after the proposal had been approved by the conference. If this trend continues, the shackles of democratic centralism, unbreakable in a single stroke, might gradually wear away.

In the end, then, the question of human rights in the Soviet Union becomes a question of power. At present, the Party, the locus of power, has demonstrated that it wishes to treat the people more humanely than it has in the past. The next test is whether the Party is prepared to give up power — both to its own minorities and to the judicial system — to ensure that the horrors of the past cannot happen again.

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